

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
UNITED STATES DISTRICT COURT  
Las Cruces, New Mexico

JUL - 9 1998

*R. Martinez*  
CLERK

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

CRIMINAL NO. 98-184 MV

EDUARDO BERNAL, )

RICARDO MENDEZ, and )

CAROLINA AYALA-DOMINGUEZ, )

Defendants.

**ORDER CONTINUING TRIAL SETTING**

**THIS MATTER** coming before the Court on the Motion of the United States and the Court being fully informed hereby finds:

1. On July 1, 1998 the Tenth Circuit Court of Appeals filed a decision in United States v. Singleton, (10th Cir. 1998 WL350507, July 1, 1998) having a direct impact on the immediate case;

2. This matter is currently scheduled for trial on July 13, 1998 which does not allow adequate time for the parties to prepare for trial in light of the Singleton decision;

3. 18 U.S.C § 3161(h)(8)(B)(ii) allows for a continuance which is necessary to allow the parties adequate time to prepare for trial in light of a novel question of fact or law;

4. 18 U.S.C § 3161(h)(8)(B)(I) supports a continuance to avoid a "miscarriage of justice" which would arise if this matter proceeds to trial without adequate preparation;

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5. 18 U.S.C § 3161(h)(8)(B)(iv) allows the trial court to consider, in deciding whether to grant a speedy trial waiver, the need for "effective preparation" even if the need for the continuance does not fall into the category of a "novel question of fact or law;"

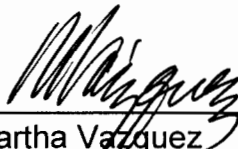
4. The implications of the Singleton decision present a novel issue of law and raise an issue which makes additional time necessary for the parties to effectively prepare for trial, thus avoiding a miscarriage of justice;

5. That the period of delay is excluded in computing the time within which the trial of this matter be commenced;

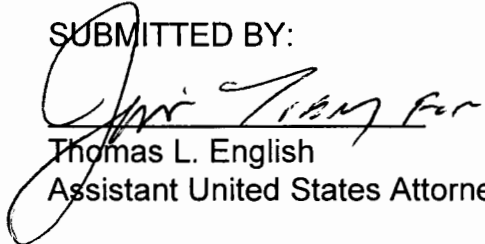
6. The ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial; and

7. The reason for finding that the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial is that all parties need adequate time to assess the impact of the Singleton decision and to prepare for trial.

**IT IS ORDERED** that this case is vacated from the July 13, 1998 trial docket and will be reset by further order of the Court.

  
\_\_\_\_\_  
Martha Vazquez  
United States District Judge

SUBMITTED BY:

  
\_\_\_\_\_  
Thomas L. English  
Assistant United States Attorney

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